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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,542

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Gilles, Jacques, Abel, Marie Motte Dit Falisse

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/526,542	Applicant(s) MOTTE DIT FALISSE, GILLES, JACQUES, ABEL	
	Examiner Anne Marie M. Boehler	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Objections to the claims and specification are withdrawn in view of applicant's amendments.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker (EP 0155185).

Baker discloses a friction drive device 22, mounted on a first part 10 which is pivotally connected to a second part 14 at 12. The second part includes a fastener (dotted line attached to frame 16) and a second pivot (unnumbered, between 14 and 16). The angle between elements 14 and 16 of the second part can be fixed by adjustment means 30, 32. The two pivots are spaced apart. A stop 28 limits the angle of pivot about the first pivot. The drive device includes a motor 20 arranged to frictionally drive bicycle wheel 24 .

4. Claims 2, 6, 9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinclair (USPN 6,497,299).

Sinclair shows a friction drive device 2 with a first part (including roller 58) pivotally connected about pivot 24 to a second part 44, 48. The second part includes a

Art Unit: 3611

pivotal and longitudinally adjustable connection 54 and a fastener 40, 43, 48 connected to a horizontal portion of a bicycle frame.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker.

Regarding the limitations of claims 3-5, 8, and 11, it would have been an obvious matter of design choice to have the drive device include these types of connections since these claims are drawn to non-patentably distinct species of the connection mechanism (ie the various non-patentably distinct species shown in Figures 4-7) in order to provide the benefits of a wider variety of connection types for permitting use with a wider variety of bicycles of differing shapes and sizes.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair (USPN 6,497,299).

Sinclair fails to show the pivot axes movable relative to each other. However, Sinclair teaches a pin 54 and groove 50 connection between elements 44 and 48 that allow for adjustment of the length of the second par. It would have been an obvious reversal of parts to provide the groove in the housing 44 and the pin 54 on the arm 48, in order to make the adjustable connection more accessible to the user.

Art Unit: 3611

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Depoilly (FR 2,346,178).

Baker lacks an adjustment means that includes an arcuate orifice on one of the parts and a second orifice in the other part facing the first orifice and a clamping means engaging the parts to hold them together when clamped.

Depoilly shows a, adjustment means, in Figure 1, for a friction drive device 10, for a bicycle including an arcuate orifice 21, on one of the parts 13 and a second orifice on the pther of the parts 15. The orifices face each other and a holding and clamping means 25, 17, 31, engages the orifices to clamp the parts together in order to precisely adjust the level of engagement between the friction drive and wheel.

It would have been obvious to one of ordinary skill in the art to provide Baker with an adjustment means including an arcuate orifice on one of the parts and an orifice on the other part with a clamping means extending through the orifices to hold the two together, in view of Depoilly, in order to precisely adjust the level of engagement of the friction drive and the wheel.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Muller (CH 685,757).

Sinclair lacks first and second serrations for adjusting the angle at the second pivot.

Muller shows an angularly adjustable pivotal connection for attachment to a bicycle frame. It includes a first member 25 with an arced serration and a second

Art Unit: 3611

member 24 with serrations that engage the serrations of the first member to lock the two in selected angular orientations.

It would have been obvious to one of ordinary skill in the art to provide the Sinclair bracket with serrated portions, as taught by Muller, in order to provide a compact means for adjusting the angle at the second pivot.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Depoilly (FR 2,346,178).

Sinclair lacks an adjustment means that includes an arcuate orifice on one of the parts and a second orifice in the other part facing the first orifice and a clamping means engaging the parts to hold them together when clamped.

Depoilly shows a, adjustment means, in Figure 1, for a friction drive device 10, for a bicycle including an arcuate orifice 21, on one of the parts 13 and a second orifice on the other of the parts 15. The orifices face each other and a holding and clamping means 25, 17, 31, engages the orifices to clamp the parts together in order to precisely adjust the level of engagement between the friction drive and wheel.

It would have been obvious to one of ordinary skill in the art to provide the Sinclair arrangement with an adjustment means for a friction drive including an arcuate orifice on one of the parts and an orifice on the other part with a clamping means extending through the orifices to hold the two together, as taught by Depoilly, in order to precisely adjust the level of engagement of the friction drive and the wheel.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Weidner (DE 29921956).

Baker lacks a first part with several seats for adjusting the position of the first pivot pin.

Weidner teaches that a member may have several pivot seats (Fig. 1-4) in order to provide the obvious benefit of providing various mounting locations (Fig. 1-4).

It would have been obvious to one of ordinary skill in the art to provide the first part of the Baker device with several seats for adjusting the position of the first pivot pin, as taught by Weidner, in order to provide various mounting positions.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Weidner (DE 29921956).

Sinclair lacks a first part with several seats for adjusting the position of the first pivot pin.

Weidner teaches that a member may have several pivot seats (Fig. 1-4) in order to provide the obvious benefit of providing various mounting locations (Fig. 1-4).

It would have been obvious to one of ordinary skill in the art to provide the first part of the Sinclair device with several seats for adjusting the position of the first pivot pin, as taught by Weidner, in order to provide various mounting positions.

13. Applicant's arguments filed June 2, 2006 have been fully considered but they are not persuasive.

Applicant has broadly stated that not every feature of the present claims is taught by Baker. However, applicant has failed to point out a single element of claims 12, 2, 6, or 9 that is not taught by the prior art.

Art Unit: 3611

Applicant argues that combination of Baker and Weidner is inappropriate in rejecting claim 10 because Weidner does not relate to the driving of a wheel of a bicycle by a motor. However, the use of multiple holes selectively registerable with a pin for selective positioning of parts is old and well known. Weidner provide one example of such an adjustable arrangement. It also relates to means for adjustably attaching accessories on bicycles so that they are pivotably adjustable and fixable in position. This is believed to be adequately related to the subject matter of Baker and Sinclair that one of ordinary skill in the art would have found it obvious to make the modification. Therefore, the rejection is being maintained.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 8/4/06
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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